



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0039; Notice 1]

#### Motor Coach Industries, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Motor Coach Industries, Inc. (MCI), MCI has determined that certain model year (MY) 1988-2022 MCI coaches do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. MCI filed an original noncompliance report dated March 22, 2022, and amended the report on April 14, 2022. MCI petitioned NHTSA on April 14, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety and submitted supplemental information on September 2, 2022. This document announces receipt of MCI's petition and supplemental information.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Jack Chern, Safety Compliance Engineer,  
Office of Vehicle Safety Compliance, NHTSA, (202) 366-0661.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** MCI determined that certain MCI motor vehicles do not fully comply with paragraph S5.1 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205).

MCI filed an original noncompliance report dated March 22, 2022, and amended the report on April 14, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MCI petitioned NHTSA on April 14, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of MCI's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Approximately 15,454 of the following coaches, manufactured between January 4, 1988, and January 14, 2022, are potentially involved:

1. MY 2001-2021 MCI J4500
2. MY 1998-2013 MCI E4500
3. MY 2017-2021 MCI J3500
4. MY 2005-2021 MCI D4005
5. MY 2005-2022 MCI D4505
6. MY 2000-2007 MCI D4000
7. MY 2001-2020 MCI D4500
8. MY 1988-2001 MCI 102D3
9. MY 1988-2001 MCI 102DL3
10. MY 2001-2022 MCI D4000ISTV

11. MY 2000-2001 MCI 102D3ISTV

12. MY 1995-1999 MCI MC12PTV

**III. Noncompliance:** MCI explains that the subject vehicles were manufactured with a small curb view window to the immediate right of the driver that has glazing rated AS-5 instead of AS-1 or AS-2, or one of the bullet resistant variations of glazing that are specified in ANSI/SAE Z26.1-1996, and therefore, do not comply with FMVSS No. 205.

**IV. Rule Requirements:** Paragraph S5.1 of FMVSS No. 205 includes the requirements relevant to this petition. Glazing materials for use in motor vehicles must conform to ANSI/SAE Z26.1-1996 (incorporated by reference, see § 571.5), unless FMVSS No. 205 provides otherwise. SAE Recommended Practice J673 (1993) (incorporated by reference, see § 571.5) is referenced in ANSI/SAE Z26.1-1996

**V. Summary of MCI's Petition:** The following views and arguments presented in this section, "V. Summary of MCI's Petition," are the views and arguments provided by MCI. They have not been evaluated by the Agency and do not reflect the views of the Agency. MCI describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

MCI explains that FMVSS No. 205 and ANSI/SAE Z26.1-1996 does not permit AS-5 rated glazing to be installed at locations requisite for driving visibility. MCI says that NHTSA considers "requisite for driving visibility" to mean "every item of glazing that is to the immediate left and right of the driver, as well as windshields."

MCI's petition includes a schematic to show the exact location of the small curb view window on the subject coaches. MCI further explains that AS-5 rated glazing "is not required to meet certain performance requirements that are applicable to AS-2 glazing." However, MCI contends that the AS-5 rated glazing installed in the small curb view window of the subject coaches complies with the 70 percent light transmittance requirement described in Test 2 of ANSI/SAE Z26.1-1996.

MCI believes that the subject noncompliance is inconsequential to motor vehicles safety and argues that “the actual field performance of the small curb view window has met the intent of the substantive requirements of FMVSS 205 for glazing requisite for driving visibility.” MCI states that “there is no reasonable possibility that any vehicle occupant would impact that window in a collision. Moreover, there is no reasonable possibility that any person would be ejected through the small curb view window in a collision, given its location and small size. For these reasons, MCI focused its analysis on the purpose of the standard for ensuring a necessary degree of transparency in motor vehicle windows for driver visibility.”

First, MCI states that the small curb view window in which the AS-5 rated glazing is installed, “is not requisite for driving in the forward and reverse gears” but may be used to assist with parking. MCI claims that “the value of the small curb view window even for parking is very limited – essentially just to identify the location of the curb to the driver or identify a person or object between the coach and the curb.”

Second, MCI explains that the glazing used in the small curb view window meets the requirements for 70 percent light transmissibility, even though that is not required for AS-5 glazing. Thus, MCI claims, “the need to ensure a necessary degree of transparency through the glazing is achieved.”

Third, MCI states that while AS-5 glazing is not required to meet certain abrasion resistance requirements of ANSI/SAE Z26.1-1996, “the small curb view window has not unreasonably degraded its transmissibility through abrasion or other environmental exposures in actual field usage.” MCI provided photos of the affected coaches with its petition to demonstrate that “the small curb view window has retained good visibility, notwithstanding many years of service in challenging environmental conditions.” Furthermore, MCI claims that glazing used in the small curb view window “has not abraded excessively over time and remains safe for use.”

MCI further states that it has not received any customer complaints over the last 10 years but acknowledges that NHTSA does not consider an absence of complaints relevant when

determining whether a noncompliance is inconsequential to motor vehicle safety. MCI states that the safety risk of the subject noncompliance “is the potentially reduced visibility through glazing that degrades from environmental exposure.” However, MCI claims that it has effectively demonstrated that “the glazing in this particular location has remained adequately transparent even after years of service in harsh environmental conditions.” Therefore, MCI believes, “in this case, the absence of complaints supports the photographic evidence accompanying this petition.”

MCI concludes by stating its belief that the noncompliance inconsequential to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject coaches that MCI no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment under their control after MCI notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2023-03504 Filed: 2/17/2023 8:45 am; Publication Date: 2/21/2023]